

No. 14/13/87-6Lab./210.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of disputes between the workman and the management of M/S M.D. H.S.M.I.T.C., Ltd., Chandigarh etc. *versus* Shri Satbir Singh.

BEFORE SHRI B.R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Reference No. 181 of 1990

Date of receipt : 28-8-89

Dated of decision : 18-7-94

SHRI SATBIR SINGH, S/O RATTAN SINGH, V.P.O. CHHAPPER, DISTRICT BHIWANI .. *Applicant*

versus

1. MANAGING DIRECTOR, HARYANA STATE MINOR IRRIGATION AND TUBEWELL CORPORATION, LTD., SECTOR 17, CHANDIGARH.

2. EXECUTIVE ENGINEER, SIWANI LINING DIVISION H.S.M.I.T.C., BHIWANI

.. *Respondent-management*

Present :

Shri B. R. Rapria, for the workman.

Shri Surender Kumar, for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act') the Governor of Haryana referred the following dispute between Satbir Singh, and the above mentioned management for adjudication to this Court,—*vide* Labour Department letter No. Bwn/184-89/36628--34, dated the 22nd August, 1989 :—

Whether termination of services of Satbir Singh, Mate is justified and in order ? If not, to what relief is he entitled ?

2. According to workman, he was appointed as Mate on 19th August, 1986 by the respondent and that the services were terminated by the management on 3rd February, 1988 without complying with the provisions of Section 25-F and 25-G of the Act. He prayed for reinstatement with full back wages and other benefit.

3. The management, in its written statement, alleged that the petitioner was appointed on 1st April, 1987 on D. C. rates on monthly wages and he worked upto 27th August, 1987 and after that the petitioner remained absent willfully. The management further pleaded that the petitioner was re-appointed afresh on 19th November, 1987 and he worked upto 30th December, 1987 and thereafter he himself left the job. It was further alleged that the action of the management was legal and the petitioner is not entitled to any relief. Several preliminary objections were also raised by the management, as they are reflected in the following issues framed on 1st February, 1991 by my learned predecessor :—

(1) As per terms of reference.

(2) Whether the claim petition is not maintainable in view of the preliminary objections No. 1 to 6 of the written statement ?

(3) Whether the provisions of the Industrial Disputes Act are not applicable to the present case ?

(4) Relief.

4. The parties led evidence in support of their rivals claim. I have heard Shri B.R. Rapria, authorised representative of the workman and Shri Surender Kumar authorised representative of the management and have gone through the case file. My issue-wise findings are as under :—

Issue No. 1 :

5. Satbir Singh, workman has deposed that had worked continuously from 19th August, 1986 to 3rd February, 1988 and that at the time termination of his services, he was neither given any notice, nor paid any retrenchment compensation. He also adduced in evidence the documents Ex.W1 to Ex. W-14 to prove the details of his attendance. He further claimed that thereafter, he had been continuously approaching the authorities for providing him job, but his efforts proved futile. He also adduced in evidence a slip Ex.W-15, issued by SDO, Bhiwani.

6. On behalf of the management, Shri S.K. Mattu, Xen, MITC, was examined as MW-1 and he deposed that the workman joined as casual labour on 19th August, 1986 and he worked upto February, 1987 in Sub-Division No. 2 and after a gap of one month, he joined another sub division on 1st April, 1987. He further stated that the workman left the job himself. He, however, admitted in his cross-examination that the work was still available with the Department.

7. When the photostat copies of the pay bills Ex. W-1 to Ex. W-14 are scrutinised, it would be manifest that the workman has worked for 232 days during the preceding twelve months from the end of December, 1987 till when the workman admittedly remained on duty. This position is admitted by management in para-1 of the written statement, on merits. As already stated above, Shri S. K. Mattu Xen has admitted in his cross-examination the work was still available with the management on the date when the services of the workman were terminated, the plea of the management that the workman himself left the job, is also falsified from the slip Ex. W-15, given by SDO, Bhiwani and it shows that the workman had been trying to procure fresh appointment through all possible means.

8. Keeping the above circumstances in view, when the job was available, I am of the view that action of the management in preventing the workman from attending to his duties with effect from 1st January, 1988 was an "unfair labour practice", and on this account, the retrenchment of the workman is illegal. In this connection I place reliance on the Division Bench authority of *Kapurthala Central Coop. Bank Ltd. Kapurthala versus Presiding Officer, Labour Court, Jullunder and others*, 1984-Lab.I.C.-974 and subsequent authorities of *Ferozepur Central Coop. Bank Ltd. versus Labour Court, Bhatinda*, FJR (Vol-67)-367, and *Gurdaspur Central Coop. Bank Ltd. versus Presiding Officer Labour Court, Gurdaspur and others* 1991(1) RSJ-76. In the authority of *Kapurthala Central Coop. Bank Ltd., versus Presiding Officer, Labour Court, Jullunder (supra)*, the workman had completed 230 days job, while in the authority of *Ferozepur Central Coop. Bank Ltd. versus Labour Court, Bhatinda (supra)*, the workman had put in 232 days in service. On the strength of these two authorities it can be said without any hesitation that the termination of services of the workman, amounted to "unfair labour practice" and the same was illegal. The workman is, thus, entitled to reinstatement with continuity of service and other benefits.

9. As regards back wages, it is to be noted that the workman preferred demand notice on 13th December 1988 i.e. after a gap of about a year and he has not furnished any explanation for his silence from 1st January 1988 to 13th December, 1988. I am, therefore, of the opinion that the workman is not entitled to back wages prior to submission of demand notice on 13th December, 1988 and he will be entitled to full back wages with effect from 13th December, 1988 onwards. The issue is answered accordingly.

Issue No. 2 and 3 :

10. No arguments were addressed on these issues and these issues were conceded to by Shri Surender Kumar, authorised representative of the management, during arguments. These issues are, thus, decided against the management.

Issue No. 4 Relief :

11. In view of my findings on the above issues the termination of services of the workman is held illegal. The same is hereby set aside. The petitioner is reinstated in the same post forthwith, with benefit of continuity of service and other consequential benefits. The petitioner shall not be entitled to any back wages from 1st January, 1988 to 12th December, 1988. He shall be entitled to full back wages with effect from 13th December, 1988 onwards. The reference is answered accordingly, with no order as to costs.

B. R. VOHRA,

The 18th July, 1994.

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Hisar.

Endorsement No. 1793, dated the 25th July, 1994.

A copy, with spare copy, is forwarded to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh for information and necessary action.

B. R. VOHRA,
Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Hisar.